

In the Matter of the Interest Arbitration Between

KEYSTONE AREA EDUCATION AGENCY 1
Employer

And

KEYSTONE AREA EDUCATION ASSOCIATION
Union

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PUBLIC EMPLOYMENT
RELATIONS BOARD

APPEARANCES:

Fuerste, Carew, Coyle, Juergens & Sudmeier, P.C., by Mr. Michael J. Shubatt,
appearing on behalf of the Employer

Mr. Jeremy Kunz, Uniserv Director, appearing on behalf of the Union

ARBITRATION AWARD

The Keystone Area Education Agency 1, hereinafter Agency or Employer, and the Keystone Area Education Association, hereinafter Association or Union, reached impasse in their bargaining for the 2005 - 2006 collective bargaining agreement. Pursuant to the Independent Impasse Procedure agreed upon between them the undersigned was selected from a list of arbitrators provided to them by the Iowa Public Employment Relations Board, hereinafter PERB, to conduct a hearing and issue a binding interest arbitration award on the issue(s) in dispute herein. A hearing in the matter was held on July 14, 2005 in Elkader, Iowa. The hearing was electronically recorded by the arbitrator in accordance with PERB rules. The parties presented oral arguments at the close of the hearing in lieu of filing post-hearing briefs.

PARTIES' FINAL OFFERS:

Employer

1. Increase the generator base salary from \$18,765.00 to \$19,280.00. This is an increase of 5% in salary for bargaining unit members.¹

¹ This offer is equal to \$124,320.83 and equates to a 1.37% total package increase cost calculated in the same manner that was utilized to arrive at the 3.37% total package increase cost of the Union's final offer.

2. Provide bargaining unit members with the \$750 deductible single plan and the least expensive single dental plan. This coverage is identical to the coverage afforded the bargaining unit for the 2004-05 contract year.

3. All other provisions and benefits remain the same as the 2004-05 contract with the exception of date changes for the duration and other dates that need to be changed on an annual basis.

4. Duration: July 1, 2005 to June 30, 2006.

Union

Article V

Increase generator base by \$1,000 to \$19,765 for 2005-06

3.37% Total Package Increase Costing \$305,676

Duration: July 1, 2005 to June 30, 2006.

All other articles current contract or as tentatively agreed to previous to arbitration.

BACKGROUND:

The Keystone Area Education Agency is currently one of 12 Iowa Education Agencies that provide special education, media and educational/instructional services to the local school districts within the geographic region they serve. Because the AEA's do not have taxing authority they are funded through a combination of direct state aid, local property taxes that flow through each AEA area school district budget to the State Comptroller who forwards the funds directly to the AEA. The media and educational/instructional services funding is based on property taxes whereas special education services are funded by a combination of state aid and property tax.

The Keystone AEA partners with 25 public school districts and 31 accredited nonpublic schools in the eight county area of northeast Iowa that is its service area. It serves 36,826 students for a rank of fifth among the State's 12 AEAs. It is governed by a nine member citizen board elected by the service area school district boards. Special

education services accounts for 75% of the agency's budget and media and educational/instructional services account for 11% and 14% respectively of the agency's budget. The agency has a staff of over 260 employees or 226.48 FTE's.

The parties commenced bargaining on February 16, 2005 with the presentation of the Association's initial proposals for the successor collective bargaining agreement. On March 3rd the Agency presented its initial proposals and thereafter the parties participated in negotiation and mediation. Arbitration was requested on May 25th and the parties entered into an independent impasse agreement calling for the arbitration and award to be concluded by September 1, 2005.

APPLICABLE STATUTORY CRITERIA:

Section 20.22 (11) of the Iowa Public Employment Relations Act states that the undersigned "shall select . . . the most reasonable offer, . . . of the final offers on each impasse item submitted by the parties, . . ." Section 20.22 (9) provides that in selecting the most reasonable offer the arbitrator "shall consider, in addition to any other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
- b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
- c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such judgements on the normal standard of services.
- d. The power of the public employer to levy taxes and the appropriate funds for the conduct of its operations.

PARTIES' ARGUMENTS:

The Association claims that its final offer is the most reasonable. It argues, and the Agency does not dispute, that the parties, like the other Iowa AEAs, have used package costing in their previous bargains, and it should be no different this year. It

argues that the insurance costs that the Employer claims it didn't charge to the package costs were incurred two contracts ago and were known when the parties bargained their last contract (2005-05) and should have been recouped then and not now. It claims that all over Iowa parties are trying to deal with the debacle created by the Iowa Star Schools self-insurance plan crisis. Under Iowa law the Union can bargain over the insurance plan benefits and the contribution levels, but the Employer determines the carrier. Also, under the law if self-insurance is chosen by the employer and "the resources of the plan are inadequate to fully cover a claim under the plan then the public body is liable for any portion of the claim that is unpaid". In this case that situation occurred two contracts ago and those costs have nothing to do with this contract. Because the Agency is making an issue of it, however, the Association claims it sounds like the Agency is making an ability to pay argument. There is a difference of approximately \$180,000 between the two offers and the evidence is that the Agency has the ability to pay that difference.

The Association also argues that insurance cost increases and decreases over the years have a teeter totter effect on salaries. When the insurance costs go up there is less money for salaries and when the costs decrease there is more money available for salaries. One of the criteria to be applied to determine the most reasonable offer is past collective bargaining contracts between the parties. Here it is undisputed that the Keystone AEA and the Association have always bargained on a total package cost basis as do the other AEAs across the State. For this contract the Agency wants to ignore package costs and simply look at the average salary increase

Another criterion under the law is to compare the wages, hours and conditions of employment of these employees with the employees of other AEAs. The Association's final offer has a total package cost of 3.37% which is the lowest among all AEAs and is the lowest package cost of any contract negotiated with this AEA in the past ten years. In this case, the Agency's offer has a total package cost of 1.39%. Also, the Keystone average salary is currently \$1882 below the average of the other AEAs, whereas the experience and educational attainment of the staff is at or above the average. The Association's offer will bring the staff average salary equal to or above the average for the other AEAs.

The Association concludes that its final offer is the most reasonable and should be awarded.

The Agency argues that because of its recent history regarding its health insurance plan, in this contract year (2005-06) the cost of health insurance in this bargaining unit will decrease from what it spent on health insurance during the last contract year. That decrease of \$215,256.47 from the prior year's cost (\$1,021,466.16 - \$806,209.69)² according to the Agency is attributable to having to terminate the Iowa Star Schools self insured plan and going to the Blue Cross Blue Shield Wellmark insured plan during the 2003-04 contract year. According to the testimony of the Employer's current insurance consultant this change was necessitated because the third party administrator (TPA) was not paying the employees claims. That occurred because there were insufficient funds available to pay those claims because the premiums that had been established by the TPA for the insurance coverage were too low. In September of 2003 Iowa Star had unpaid claims of 3.9million dollars and only \$270,000 in cash on hand. When the change to Wellmark occurred a large influx of cash was needed to settle the outstanding claims and a mid year rate increase was also necessary because the then existing premium was insufficient to pay new claims. Thus, according to Employer Exhibit # 15, there was an assessment in September 2003 of \$101,120 in this bargaining unit. In addition, because Wellmark was charging a higher premium than had been quoted by Iowa Star the Agency paid out an additional \$100,677.50, and finally the Agency paid an additional 2 months of premiums (January and February 2004) to Iowa Star for claims incurred on or before December 31, 2003. Therefore, according to the Employer, it incurred an additional \$367,613.43 in insurance costs for the 2003-2004 contract year. Employer's Exhibit # 16 shows that the Agency's package cost for the 2003-2004 contract year then increased from 5.03% to 9.24%, and that increase was absorbed by the District. This event, the Employer argues, was an anomaly and is the basis for why it believes that when evaluating the reasonableness of its final offer the percentage increase in salaries, rather than total package costs, is the more realistic measure of which offer is the most reasonable.

² The Employer's Exhibit # 8 lists the 2005-2006 health insurance cost as \$804,735.36.

The Agency contends that it has had a history of trying to shield the employees from volatile insurance premium increases. It says that it was surprised when the Association was unwilling to accept a lower salary increase for this contract. The Agency asserts that the Association wants it both ways. The Agency paid on the way in when insurance costs unexpectedly went up during the contract year and now is being asked to pay more on the way out when those costs decrease and return to a more normal level. It argues that the Association wants the Employer to absorb the additional \$367,000 in insurance costs that were incurred in 2003-04 but not charged to the package, and then it wants a windfall when the insurance rates decrease. The Agency argues that it shouldn't have to do both. It contends that this situation calls for thinking outside the box.

It also claims that when you look at salary, professional leave time and cafeteria benefits the Agency is at the top of the heap with respect to total salary. The Employer argues that in this year total package costing is irrelevant because of what has happened with the health insurance. The employees will receive a 5% salary increase and no reduction in benefits under its offer and that demonstrates the irrelevance of using total package costing that will result in a windfall to employees. Therefore, it believes its final offer is the most reasonable.

DISCUSSION:

This arbitration is concerned only with whose proposal for an increase in the generator base is the most reasonable.³ The parties' disagreement over this issue is tied to whether the reasonableness of each offer should be measured in terms of the total package cost, as argued by the Association, or the resulting percentage of salary increase of each offer, as argued by the Employer. The Union's final offer of a \$1000 increase to the generator base (\$18,765 to \$19,765) results in a percentage salary increase of 7.642% or \$3306.63 average per teacher with a package cost of 3.37%. The Employer's offer increases the generator base by \$515 (\$18,765 to \$19,280) with a resultant 5% salary increase or \$2163 average increase per teacher with a total package cost of 1.39%.

³ The Agency stipulated at hearing that it was not going to argue an inability to pay the costs of the Association's final offer.

It is undisputed that the parties have historically bargained their contracts on the basis of the percentage increase in the total package cost. However, for this contract term the District believes it is more appropriate to consider the resulting salary increase generated by their respective proposed increases to the generator base rather than merely looking at the total package cost of each party's final offer. An examination of the settlements for the 2005-2006 contract of the other 11 AEAs in terms of total package cost reveals that they range from a high 4.8% to a low of 3.46% with the average being 4.02%. Thus, the Association's offer is 0.65% below the average of the other AEAs whereas the Agency's final offer is 2.63% below the average. An examination of the average percentage salary increase negotiated for the 2005-2006 contract year by the other AEAs shows that they ranged from a high of 6.61% to a low of 2.97% with the average being 4.53%. That compares to the Association's final offer that generates an average salary increase of 7.642% as compared to the Agency's average 5% increase in salary. Thus, the Association's final offer exceeds the average salary increase negotiated in the other 11 AEAs by 3.11% whereas the Agency's offer is 0.67% above the average of the AEAs. In terms of these two measurements, the Association's final offer percentage salary increase is significantly greater than the average of the other AEA settlements for the 2005-2006 contract year, whereas the Agency's total package cost of its final offer is significantly below the average package cost of the other AEA settlements.

When the parties base their negotiated settlements on the total package costs it means that, as in the current environment, substantial increases in insurance costs may result in less money being available for generator base salary increases or other fringe benefit improvements because a substantial amount, if not all, of the available money is taken up by insurance costs and step movement. This is reflected in Association Exhibit # 16 which shows that going back to the 1995-96 contract and coming forward there were four contract years when the generator base was increased and six years when there was no increase to the generator base. During that period the average total package cost of the contracts negotiated by the parties was 4.4%. In 2002-2003 the Employer changed health insurance carriers from the Iowa Schools Benefits Association to the Iowa Star Schools self-funded plan. This change occurred because the former insurance plan

proposed to raise the premium 47.47% and the Iowa Star Schools quoted a premium that amounted to only a 22% increase over the 2001-2002 premium. At the time of the change, the parties negotiated a \$406 increase to the generator base. In that contract year (2002-2003) the total package cost increase was 3.6%. Obviously, had the Agency not switched insurance carriers more of the money generated by the 3.6% total package increase would have been taken up by the 47.47% increased cost of health insurance and thus less money would have been available to provide an increase in the generator base. This is the teeter totter effect that the Union argues in support of its claim that the offers should be evaluated on the basis of total package cost as they have over at least the past ten contract years.

It is the case that the employees benefited in terms of salary in 2002-2003 when the generator based was increased by \$406 because the health insurance premium quoted by Iowa Star Schools took up less of the 3.6% package increase dollars than would have been the case had the agency stuck with the Iowa Schools Employee Benefits Association insurance. The renewal premium quoted to the Agency by that carrier was \$409.72, which when compared to where the premium is for 2005-2006, was probably closer to what it should have been than what was quoted by Iowa Star Schools. Iowa Star Schools in essence low balled its premium quote and that subsequently created funding problems that resulted in its contract being terminated in the middle of the 2003-2004 contract year and caused Wellmark, the successor carrier, to temporarily set the premium at a rate that was higher than it would have been had the premium not been set too low by Iowa Star Schools in the first place, in order to generate sufficient funds to pay the claims. Also, this substantial under funding of the insurance costs in 2002-2003 meant that those monies that had been charged to the package costs for the 2003-2004 contract in bargaining had to be supplemented by the agency during the contract term in order that claims could be paid. This meant that the insurance costs in 2003-2004 went up substantially over what they had been in 2002-2003 and what the parties expected they would be for 2003-2004 during bargaining. Indeed, the insurance costs in 2002-2003 were \$474,216.60 whereas in 2003-2004 the Agency spent 1,113,020.52 for health insurance and it also spent \$1,021,466.16 on health insurance in this bargaining unit in 2004-2005. The projected cost for health insurance in this bargaining unit for 2005-2006,

based upon the Wellmark renewal premium bid, is now \$806,735.36. As can be seen there were substantial unanticipated increases in health insurance premium costs incurred by the Agency and its employees from what was known during bargaining for the 2002-2003 contract. It was the case that therefore money was spent to increase the generator base for the 2002-2003 contract because of an anticipated savings that never materialized. And, subsequently, insurance costs in the two subsequent contract years were higher than they otherwise would have been had the Agency stayed with the Iowa Schools Employees Benefit Association. It is also the case that had the Agency not changed carriers the generator base would not have been able to be increased to level it was and maintain the same package cost.

The question presented by this case is whether these fluctuations justify a deviation from the parties' norm of negotiating and evaluating contracts on the basis of total package cost in determining whose proposals are the most reasonable. An analysis of the insurance cost increases shows that had the Agency stayed with the Iowa Schools Employees Benefit Association health insurance the cost to this bargaining unit, based upon 137 participants, would have been approximately \$672,396 as compared with the cost of \$474,216.60 for the Iowa Star Schools plan. Clearly, as it turned out, the Iowa Schools Employees Benefit Association's renewal bid more accurately reflected the true cost to provide health insurance to this bargaining unit. My analysis of the testimony and evidence regarding the insurance problems that occurred thereafter and costs incurred by the Agency leads me to conclude that, but for this underbidding by Iowa Star Schools that resulted in an under funded situation and claims going unpaid for the 2002-2003 and first half of the 2003-2004 contract years, the premium rate for the second half of the 2003-2004 and the 2004-2005 contract years would have been significantly less than the insurance premium paid to Wellmark for the second half of 2003-2004 and the 2004-2005 contract years. With the benefit of hindsight it appears that the renewal premium established by Iowa Star Schools for the 2003-2004 was reasonably close to what it should have been, but for the under funding situation that it had already created in 2002-2003.

Following through with this analysis one can see what most likely should have been the agency's health insurance costs in the 2003-2004 and 2004-2005 contract years.

While I agree with the Association that this is ancient history in terms of this bargain, it is nonetheless the essence of the Agency's claim that in this bargain (2005-2006) there is substantial and justifiable reason to deviate from the parties' established history of bargaining and evaluating contract costs on the basis of total package cost.

					<u>Estimated</u>	<u>Actual</u>
2002-03	X	\$409/mo	X	137 participants	X 12 mos = \$672,396	vs \$474,216.60
2003-04	X	\$459/mo	X	137 "	X 12 mos = \$754,596	vs \$1,113,020.52
2004-05	X	\$479/mo	X	137 "	X 12mos = \$787,476	vs \$1,021,466.13
2005-06	X	\$498/mo	X	137 "	X 12mos= \$818,712	vs \$806,209.69

These numbers show that the switch in health insurance plans in 2002-2003 saved the parties \$198,180 as compared with the renewal rates quoted by Iowa Schools Employees Benefit Association. Whereas, in 2003-2004 and 2004-2005 the parties were charged \$358,424 and \$233,990 respectively more than what would have been the case but for the situation created by the switch in 2002-2003. Clearly, more was spent on health insurance costs in those two years than most likely would have been had the switch not been made. But it is the case that this impacted both the Association as well as the Agency.

I am persuaded that these facts show that what has occurred since the 2002-2003 contract negotiations in terms of the parties' health insurance costs does not qualify as the normal teeter totter effect in the area of health insurance and salary. In the first place, over the past several years health insurance costs have not been going up and down, but rather have been steadily on the rise. The teeter totter effect the Union has reference to, in the undersigned's opinion, relates to years when insurance rates hit a lull, or in other words don't increase as rapidly as in prior years thus freeing up money that had in the recent past been going to pay for continuing increases in health insurance costs. What we have in this situation is not that but rather a decline in costs attributable solely to the parties understandably seeking ways to decrease the rate at which these costs were increasing, and to that end were in effect misled into believing that Iowa Star Schools could do exactly that for them. The old adage "if it looks too good to be true it probably is" seems to have held true in this case. The result was that the parties had to incur

extraordinary health insurance costs in order to recover from the effects of the under funding created when Iowa Stars Schools low balled its insurance bid. Clearly then, the situation in 2005-2006, when insurance costs have decreased significantly, is not the result of a lull in the rate of increase in those costs, but rather is the return to normal after having to pay abnormally high insurance costs for two years to undue the damage done by paying too little in 2002-2003 because of the actions of Iowa Star Schools. Based upon the undersigned's 35 plus years of experience in this field I am persuaded this is a truly unusual circumstance.

The Union's justification for a wage increase almost twice the size of the Employer's is that when it is rolled into the total package settlement cost the percentage increase is less than the average of all AEAs for 2005-2006. Under this rationale the Union's proposed salary increase could have been even greater and still would not have exceeded the other AEAs average increase. However, salaries are only one component of total compensation costs and package cost is only one measure of the reasonableness of a particular final offer proposal. The Union is correct that a disproportionate increase in one of the components of the total compensation package means there is less money for the other discretionary⁴ items such as salary, health insurance, cafeteria benefits, professional leave, etc. Under the Association's rationale if such an increase occurs it necessarily reduces salary money and, thus, a decrease in insurance costs means the value of those insurance cost reductions necessarily justifies a concomitant increase in salary because the money that was spent on insurance in the past would necessarily have otherwise been spent on salary or some other compensation component because the overall dollars spent on the package fell within the parameters of settlements in other comparable entities.

However, there is no record evidence suggesting that the parties merely bargain a total package percentage increase and then the Association is free to determine the allocation of those dollars. Rather, the norm is that parties in the give and take of collective bargaining decide how and how much, if at all, to increase the money spent in

⁴ I have used the term "discretionary" to refer to those items where cost is determined through bargaining about the components of the item, whereas in the case of non-discretionary items cost, such as IPERS, FICA, Medicare, etc., are driven by the level of salary and are commonly referred to as roll-up costs over

each discretionary compensation area. As shown in Association Exhibit # 16 the package percentage increase over the past ten years was not constant but changed from year to year. Their bargaining history shows that in some years they have bargained increases in professional leave and/or cafeteria benefits as well as the generator base and in other years bargained no increase in any or all of those compensation items. While it may be that these parties as well as the other AEAs report their contract settlements in terms of the total package percentage increase it is the increase/decrease in individual total compensation components that drive the package percentage increase and not the other way around. Furthermore, these extra ordinary temporary health insurance cost increases have skewed the base year costs for 2004-2005 which in turn skew the subsequent contract year package costs in terms of percentage increase. So while it is true the dramatic decrease in health insurance costs based upon the quoted premium for 2005-2006 would permit more money to be spent on other total compensation components while holding down the percentage increase in total package costs in 2005-2006 when measured against the 2004-2005 base year costs does that end the discussion?

As stated earlier, percentage increase in package cost is but one way of evaluating each party's final offer. However, the reasonableness of any proposed change in the individual components that drive the percentage package increase must also necessarily be examined. Not to do so would give license to a party to propose an unreasonable change in one component while at the same time claiming the cost of the entire package was reasonable. In this case the only component of total compensation that is in dispute is salary.

An examination of the Agency's salary schedule reveals that it ranks 1, 2, or 3 at almost every benchmark when compared with the other AEAs. And, an examination of the impact of the Agency's final offer shows that at each benchmark on the schedule, with the exception of 3 or 4 instances, the Agency would not drop from that ranking in 2005-2006 were its offer selected. Additionally, a 5% average salary increase, as proposed by the Agency, is approximately 2% more than the cost of living increase from May of 2004 to May of 2006. Thus, under the Agency offer employees would

which neither party bargains and have a predetermined relationship to salary. The level of salary is what determines these costs.

experience a real wage gain of approximately 2% over their 2004-2005 salary. Whereas the Union's final offer would generate more than a 4 1/2 % real wage gain. Further, there has been no showing that the Agency employees are in a catch-up position, vis-à-vis the salaries at the other AEAs, that was exacerbated by the temporary extraordinary increases in health insurance costs.

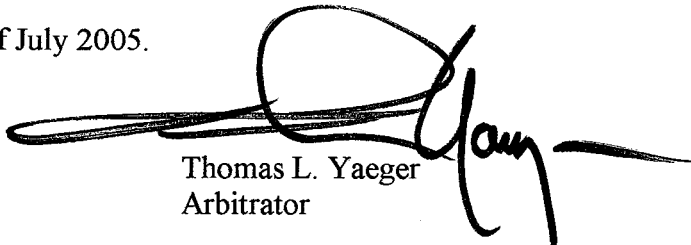
Thus, even though both final offers, in terms of percentage package increase over the 2004-2005 base year total compensation costs, are below the average of all the AEAs 2005-2006 settlements, the Agency's final offer percentage package increase is significantly more below the average than is the Association's. However, there is also no record evidence that any of the other 11 AEAs experienced the same or similar dramatic increases in health insurance costs in 2003-2004 and 2004-2005, and then an equally dramatic decrease in costs based upon premiums for 2005-2006. Were that not the case, and had it been shown that other AEAs had the same or similar experience and still bargained contracts with package costs like that of the Association's offer the undersigned would be more inclined find the Union's final offer the most reasonable. But, those are not the facts before me.

Therefore, after giving due consideration to the Section 20.22 (9) statutory criteria to be used in evaluating final offers, as well as the exhibits, testimony, and arguments of the parties I conclude that the Employer's final offer is the most reasonable.

AWARD

The Employer's final offer of a \$515 increase in the generator base salary for the 2005-2006 collective bargaining agreement is selected as being the most reasonable.

Entered this 29th day of July 2005.


Thomas L. Yaeger
Arbitrator

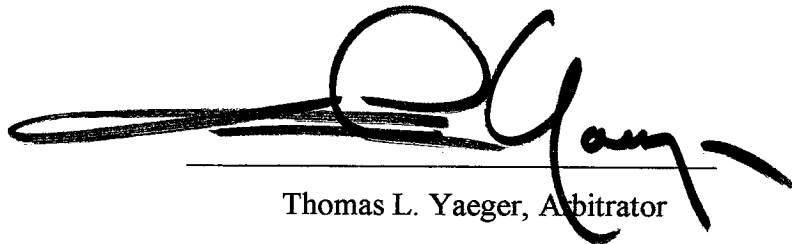
CERTIFICATE OF SERVICE

I certify that on the 29th day of July, 2005, I served the foregoing Award of Arbitrator upon each of the parties to this matter by mailing a copy to them by mailing a copy to them at their respective addresses shown below:

Mr. Michael J. Shubatt
Fuerste, Carew, Coyle, Juergens & Sudmeier, P.C.
151 West 8th street
200 Security Building
Dubuque, Iowa 52001-6832

Mr. Jeremy Kunz
Uniserv Director
1027 W. 4th Street
Waterloo, Iowa 50702

I further certify that on the 29th of July, 2005, I will submit this Award for filing by mailing it to the Iowa Public Employment Relations Board, 514 East Locust, Suite 202, Des Moines, Iowa 50309.



Thomas L. Yaeger, Arbitrator